

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

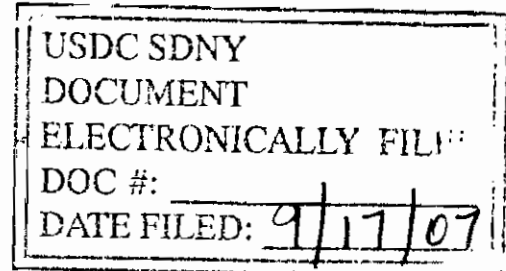
-----X
CHRISTOPHER E. BROWN,
an individual,

Plaintiff,

- against -

PAX VENTURES, LLC,
a New York Limited Liability Company,

Defendant.
-----X



Case No.: 07-cv-03273 (RJH)

PROPOSED SCHEDULING ORDER

RJA

After consultation with counsel for the parties, the following proposed Scheduling Order is submitted to the court pursuant to Federal Rules of Civil Procedure 16 and 26(f) and the individual practices of Richard J. Holwell. This Order is also the Civil Case Management Plan.

1) **DESCRIPTION OF THE CASE**

a) Attorneys of Record and Lead Trial Attorneys:

Counsel of Record and Lead Trial Attorney for Plaintiff Christopher Brown:
J. Justin Griffin, Esq.
Ku & Mussman, P.A.
Of Counsel
64 Oriole Street
Pearl River, NY 10965

Counsel of Record and Lead Trial Attorney for Defendant Pax Ventures, LLC:
Stacie Bryce Feldman, Esq.
Kossoff & Unger
217 Broadway, Suite 401
New York, New York 10007

b) Basis for Federal Jurisdiction:

The Complaint alleges violations of the Americans with Disabilities Act, 28 U.S.C. §12181, *et seq.* Accordingly, the court is vested with original jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

c) Statement of the Nature of the Claim:

Plaintiff's Complaint seeks declaratory and injunctive relief, as well as damages, for Defendant's alleged violations of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq., (hereinafter "ADA"). Plaintiff alleges that Defendant is the owner, operator and/or lessee of certain properties (hereinafter "the Properties") which Plaintiff contends are places of public accommodation within the meaning of the ADA. Plaintiff's Complaint seeks an injunction requiring Defendant to alter the properties for accessibility and usability to the extent required by Title III of the ADA.

Defendant disputes that it is the owner, operator and/or lessee of the Properties as defined in the Complaint, but Defendant admits that the lessees of portions of the three (3) addresses listed in the Complaint are occupied by entities d/b/a Pax Wholesome Foods. Defendant also contends that the modifications sought by Plaintiff are not legally required, technically infeasible, not readily achievable and/or would create an undue hardship on the Defendant. Moreover, Defendant asserts that any violations of the ADA are the result of actions over individuals and/or entities over which Defendant does not control and Plaintiff has failed to name as parties.

d) Summary of Issues as Presently Known:

- i) Whether Defendant is the owner, lessee and/or operator of the Properties within the meaning of the ADA.
- ii) Whether Plaintiff has standing pursuant to the ADA to maintain the instant action.
- iii) Whether Plaintiff has accessed and/or attempted to access the Properties and/or the portion thereof occupied by Defendant.
- iv) Whether Properties, and/or the portion of the Properties occupied by Defendant, are subject to the applicable requirements of the ADA.
- v) Whether the Properties are places of public accommodation within the meaning of the ADA
- vi) Whether the Properties contain impermissible barriers to access as defined under the ADA.
- vii) Whether removal of such barriers, if any is required pursuant to the ADA.
- viii) Whether Defendant is required to remove any such barriers.
- ix) Whether Defendant has the authority and/or capacity to make the alterations and/or modifications sought by Plaintiff.

- x) Whether removal of the barriers, if any, by Defendant is readily achievable or would create an undue hardship on the Defendant.
- xi) Whether the alterations and/or modification sought by Plaintiff are in conflict with applicable local, state and/or other laws.

2) **PROPOSED CASE MANAGEMENT PLAN**

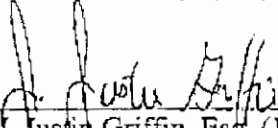
- a) No pending motions at this time.
- b) Joinder of additional parties without leave from the Court must be accomplished by November 30, 2007.
- c) Amended pleadings may be filed until December 31, 2007.
- d) Discovery shall be completed as follows:
 - i) Rule 26(a)(1) disclosures, shall be completed by October 30, 2007.
 - ii) All fact discovery shall be completed by January 25, 2008.
 - iii) Rule 26(a)(2) disclosures, shall be completed by February 28, 2008.
 - iv) All expert discovery shall be completed by March 28, 2008.
- e) All dispositive motions shall be filed by May 15, 2008.
- f) The parties shall submit a final pretrial order by June 16, 2008.
- g) Proposed Trial Schedule:
 - i) The parties are proceeding with a Non-Jury trial.
 - ii) The parties anticipate four (4) days for trial.
 - iii) This case shall be ready for trial on July 15, 2008.

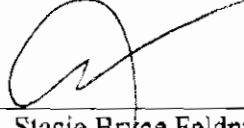
3) **CONSENT TO PROCEED BEFORE A MAGISTRATE JUDGE**

The parties have not been able to reach a unanimous consensus to proceed before a Magistrate Judge for all purposes, pursuant to 28 U.S.C. § 636(c).

4) STATUS OF SETTLEMENT DISCUSSIONS

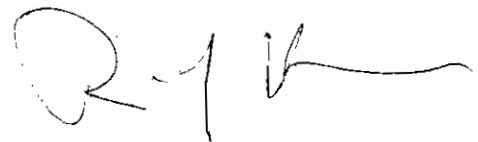
- a) Meaningful settlement discussions between the parties have not occurred at this time.

By: 
Justin Griffin, Esq. (JG4808)
jg10@hotmail.com
Ku & Mussman, P.A.
Of Counsel
64 Oriole Street
Pearl River, NY 10965
Tel.: (845) 653-1172
Fax: (845) 623-8072
Dated: 9/4/07
Attorneys for Plaintiff Christopher Brown

By: 
Stacie Bryce Feldman, Esq. (SF2550)
sfeldman@kaulaw.com
Kossoff & Unger
217 Broadway
Suite 401
New York, New York 10007
Tel.: (212) 267-6364
Fax: (212) 385-2558
Dated: 9/4/07
Attorneys for Defendant Pax Ventures, LLC

A status conference shall be held on
Feb. 22, 2008 at 10:00 am.

SO ORDERED



US DJ
9/7/07